



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

June 14, 2011

Regulatory Division (SPK-2009-01483)

Mr. Dan Leavitt
California High Speed Rail Authority
925 L Street
Sacramento, California 95814

Dear Mr. Leavitt:

I am writing in response to your January 26, 2011, Checkpoint B Package, and the April 22, 2011 Checkpoint B Summary Report for the proposed Merced to Fresno segment of the California High-Speed Train ("CHST") Project. In accordance with our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding* dated November 2010 (NEPA/404/408 MOU). This letter is our formal response.

As a cooperating agency for preparation of the Merced to Fresno Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, we offered feedback to the Federal Railroad Administration as well as the California High-Speed Rail Authority ("Authority") on the range of alternatives during meetings on January 28, March 14, May 17, and May 24, 2011 as well as direct communication with your staff and consultants. The Authority has provided additional information and clarification per our requests. The alternatives were evaluated based on the ability to meet the project purpose and the project performance objectives and evaluation measures presented in the April 2010, *Preliminary Alternatives Analysis Report*.

After reviewing the data provided, including screening criteria and support information, we agree the following alternatives should be carried forward as part of the reasonable range of alternatives to be studied in the EIR/EIS:

1. Stations
 - a) Merced Downtown Station.
2. East-West Alignments
 - a) Henry Miller/Ave 24
 - b) South SR 152 (Ave 21)

3. Heavy Maintenance Facility
 - a) Castle Commerce Center
 - b) Harris-Dejager
 - c) Gordon-Shaw
 - d) Fangundes
 - e) Kojima Development
4. North-South Alignments
 - a) UPRR/SR 99 (A2)
 - b) Hybrid
 - c) BNSF (A1)

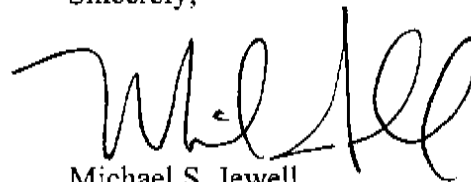
Although we agree the BNSF (A1) alternative and Kojima Development Heavy Maintenance Facility (HMF) site can be carried forward, we note these alternatives are not likely to comply with the requirements of the 404(b)(1) Guidelines ("Guidelines") due to substantial impacts to waters of U.S., including wetlands. Under the Guidelines, no discharges of dredged or fill material into waters of the U.S., including wetlands, can occur unless it can be demonstrated that such discharges, either individually or cumulatively, will not result in an unacceptable adverse impact on the aquatic ecosystem. The Guidelines specifically require that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge, which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. When considering practicability, the Guidelines define practicable alternative as one that is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose [40 C.F.R. § 230.3(q)]. Based on the information provided in the Checkpoint B materials and the February 2011, *Draft Wetlands Delineation Report: Merced to Fresno Section*, the BNSF Alternative contains a substantial number of vernal pools (19.5 acres), seasonal wetlands (21.8 acres), vernal pool critical habitat, and agricultural impacts, not present within the other alignments. The Kojima Development site would result in the impacts to approximately 0.75 acre of vernal pools and seasonal wetlands while no other HMF site would result in impacts to these features. Since it has been shown that there are other practicable alternatives which have fewer impacts to the aquatic ecosystem the Corps would have to permit those alternatives over the BNSF (A1) alternative and the Kojima Development site.

We do not agree that the Western Madera (A3) and SR 152 WYE Connection alternatives should be eliminated from the EIR/EIS. Although the Western Madera alternative is reported to have more impacts to agricultural lands due to the divergence from transportation corridors, the data provided shows that this alternative only severs 4.5% more acres than the Hybrid alternative. This alternative impacts 52% (73 acres) more Prime farmland, but impacts 52% (111 acres) less Unique farmland. The agricultural impacts appear to be similar to other alternatives while resulting in fewer community impacts and impacts to the aquatic ecosystem and vernal pool critical habitat. The SR 152 WYE Connection Alternatives should also be carried forward because a cost comparison has not been provided to substantiate the assertion that it could cost

twice as much as any other alternative. This alternative would avoid aquatic and biological resources resulting in impacts to 85% (2.2 acres) less lakes/ponds/streams, 85% (2.3 acres) percent less swamps/marshes, 62% (8 acres) less vernal pool complexes, 46% (11 acres) less wetland habitat, and 24% (73 acres) less San Joaquin kit fox range. Due to the lack of data on estimated costs related to the re-construction of SR 152, this alternative should be carried forward due to the lower impacts to aquatic and biological resources.

We appreciate the opportunity to provide input on the range of alternatives and look forward to your letter identifying the status of each alternative that we did not agree. If you have any questions, please contact Mr. Zachary Simmons at our California South Branch Office, 650 Capitol Mall, Suite 5-200, Sacramento, California 95814-4708, email Zachary.M.Simmons@usace.army.mil, or telephone 916-557-6746. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael S. Jewell', with a stylized, flowing script.

Michael S. Jewell
Chief, Regulatory Division

Copies Furnished

Mr. David Valenstein, Federal Railroad Administration, 1200 New Jersey Avenue SE- Mail Stop 20, Washington, D.C. 20590-0001

Ms. Connell Dunning, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105

Mr. Jason Brush, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105

Mr. Bryan Porter, Parsons Brinckerhoff, 925 L Street, Suite 1425, Sacramento, California 95814-3704